

Remarks

The requirement for election of species is traversed on the grounds that the species of the invention recited in all of the pending claims are so closely related that there is no proper basis for requesting such an election. M.P.E.P. § 806.03 states: "Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition." Further, the both the Rules and MPEP clearly state that an applicant is permitted to a "reasonable number" of species (MPEP § 806.04; 37 C.F.R. § 1.141).

In the present application, all of the diseases listed for the species election of a particular autoantigen all fall within the rubric of epitopes capable of use in the fusion protein of the pending claims, as identified by Applicant. Moreover, Applicant respectfully submits the species requirement as improper; having six autoimmune disorders, out of the great many diseases of which epitopes may be selected, would seem to be a reasonable number. The inventive aspect to the fusion protein of the present invention is the finding that particular epitopes from the listed diseases are capable of functioning in the manner described in the specification. In fact, the pending claims define the same essential characteristics of a single disclosed embodiment of the invention.

Applicant does not traverse the requirement for election of species on the grounds of lack of patentable distinctness between the species. Rather, Applicant traverses the requirement for election of species on the grounds that the

relatedness of the species precludes the requirement for election, notwithstanding possible patentable distinctness between the species.

Applicant respectfully requests withdrawal of the election of species requirement. Additionally, Applicant is applying for a three month extension of time. If there are any questions or comments, Applicant's attorney may be reached at the telephone number state below.

Respectfully submitted,



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